



ARKANSAS JUDICIARY

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## Rule 2. Time And Method Of Taking Appeal.

(a) *Notice of appeal.* Within thirty (30) days from (1) the date of entry of a judgment or uniform sentencing order, or (2) the date of entry of an order denying a post-trial motion under Ark. R. Crim. P. 33.3, or (3) the date a post-trial motion under Ark. R. Crim. P. 33.3 is deemed denied pursuant to subsection (b)(1) of this rule, or (4) the date of entry of an order denying a petition for postconviction relief under Ark. R. Crim. P. 37, the person desiring to appeal the judgment or order or both shall file with the clerk of the circuit court a notice of appeal identifying the parties taking the appeal and the judgment or order or both being appealed. The notice shall also state whether the appeal is to the Court of Appeals or to the Supreme Court; and if to the Supreme Court, the appellant shall designate the applicable subdivision of Supreme Court Rule 1-2(a) which gives the Supreme Court jurisdiction. This declaration shall be for the purpose of placing the case with one court or the other for preliminary administration. It shall not preclude the appellant from filing his or her Brief pursuant to Supreme Court Rules 4-3 and 4-4 in the alternative court if that is later determined by the appellant to be appropriate.

(b) Time for filing.

(1) A notice of appeal filed after the trial court announces a decision but before the entry of the judgment or order shall be treated as filed on the day after the judgment or order is entered. Upon timely filing in the trial court of a post-trial motion, the time for filing a notice of appeal shall be extended for all parties. The notice of appeal shall be filed within thirty (30) days from entry of the order disposing of the last motion outstanding. However, if the trial court neither grants nor denies the motion within thirty (30) days of its filing, the motion shall be deemed denied by operation of law as of the thirtieth day, and the notice of appeal shall be filed within thirty (30) days from that date.

(2) A notice of appeal filed before disposition of any post-trial motions shall be treated as filed on the day after the entry of an order disposing of the last motion outstanding or the day after the motion is deemed denied by operation of law. Such a notice is effective to appeal the underlying judgment or order. A party who also seeks to appeal from the grant or denial of the motion shall within thirty (30) days amend the previously filed notice, complying with subsection (a) of this rule. No additional fees will be required for filing an amended notice of appeal.

(3) *Inmate filing.* If a person confined in a correctional or detention facility files a pro se notice of appeal from a judgment of conviction in circuit court or from a circuit court judgment denying postconviction relief under Arkansas Rule of Criminal Procedure 37, and the notice is not timely under subdivision (a) or (b) of this rule, it shall be deemed filed on the date of its deposit in the facility's legal mail system if the following conditions are satisfied:

(i) on the date the notice of appeal is deposited in the mail, the appellant is confined in a state correctional facility, a federal correctional facility, or a regional or county detention facility that maintains a system designed for legal mail; and

(ii) the notice of appeal is filed pro se; and

(iii) the notice of appeal is deposited with first-class postage prepaid, addressed to the clerk of the circuit court; and

(iv) the notice of appeal contains a notarized statement by the appellant as follows:

**"I declare under penalty of perjury:**

**that I am incarcerated in**

\_\_\_\_\_ **[name of facility];**

**that I am filing this notice of appeal pro se;**

**that the notice of appeal is being deposited in the facility's legal mail system**

**on \_\_\_\_\_ [date];**

**that first-class postage has been prepaid; and**

**that the notice of appeal is being mailed to**

\_\_\_\_\_ **[list the name and address of each person served with a copy of the notice of appeal].**

\_\_\_\_\_  
**(Signature)**

**[NOTARY]"**

The envelope in which the notice of appeal is mailed to the circuit clerk shall be retained by the circuit clerk and included in the record of the appeal.

(c) Certificate that transcript ordered.

(1) If oral testimony or proceedings are designated, the notice of appeal shall include a certificate by the appealing party or his attorney that a transcript of the trial record has been ordered from the court reporter, and, except for good cause, that any financial arrangements required by the court reporter pursuant to Ark. Code Ann. 16-13-510(c) have been made. If the appealing party is unable to certify that financial arrangements have been made, then he shall attach to the notice of appeal an affidavit setting out the reason for his inability to so certify. A copy of the notice of appeal shall be mailed to the court reporter.

(2) Alternatively, the notice of appeal shall include a petition to obtain the record as a pauper if, for the purposes of the appeal, a transcript is deemed essential to resolve the issues on appeal.

(3) It shall not be necessary to file with either the notice of appeal or the designation of contents of record any portion of the reporter's transcript of the evidence of proceedings.

(d) Notification of parties. Notification of the filing of the notice of appeal shall be given to all other parties or their representatives involved in the cause by mailing a copy of the notice of appeal to the parties or their representatives and to the Attorney General, but failure to give such notification shall not affect the validity of the appeal.

(e) Failure to pursue appeal. Failure of the appellant to take any further steps to secure the review of the appealed conviction shall not affect the validity of the appeal but shall be ground only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal. The Supreme Court may act upon and decide a case in which the notice of appeal was not given or the transcript of the trial record was not filed in the time prescribed, when a good reason for the omission is shown by affidavit. However, no motion for belated appeal shall be entertained by the Supreme Court unless application has been made to the Supreme Court within eighteen (18) months of the date of entry of judgment or entry of the order denying postconviction relief from which the appeal is taken. If no judgment of conviction was entered of record within ten (10) days of the date sentence was pronounced, application for belated appeal must be made within eighteen (18) months of the date sentence was pronounced.

(f) Dismissal of appeal. If an appeal has not been docketed in the Supreme Court, the parties, with the approval of the trial court, may dismiss the appeal by stipulation filed in that court or that court may dismiss the appeal upon a motion and notice by the appellant.

#### **Comment Text:**

#### **Reporters Notes, 2007 Amendment.**

The 2007 amendment clarified that the notice of appeal was to be filed with the circuit clerk, not the circuit judge.

#### **Reporter's Notes, 2015 Amendment.**

The 2015 amendment added subsection (b)(3). It is based on the federal "mailbox rule," Fed. R. App. P. 4(c). It is limited to appeals from convictions or denials of Rule 37 relief and applies only to pro se inmates.

#### **Reporter's Notes, 2017 Amendment**

"Uniform sentencing order" was added to subdivision (a)(1).

#### **History Text:**

History. Amended October 25, 1976; amended December 18, 1978; amended January 25, 1988, effective March 1, 1988; amended January 31, 1994; adopted and amended July 10, 1995, effective January 1, 1996; amended December 4, 1995; amended December 9, 1996;

amended June 23, 1997; amended June 30, 1997, effective for cases in which the record is lodged on or after September 1, 1997; amended December 4, 1997; amended November 5, 1998; amended January 28, 1999; amended June 24, 1999; amended November 15, 2007; amended June 25, 2015, effective September 1, 2015; amended December 14, 2017, effective January 1, 2018.

**Associated Court Rules:**

Rules of Appellate Procedure?Criminal

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